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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF SAN BERNARDINO**
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11 CRYSTAL CARUTHERS; JESSIE DIAZ,
12 individually, and on behalf of all others similarly
situated,

13 Plaintiffs,

14 vs.
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16 TERRIBLE HERBST, INC., a Nevada
corporation; TERRIBLE HERBST
17 MOTORSPORTS, LLC, a Nevada limited liability
company; and DOES 1 through 10, inclusive,
18

19 Defendants
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Case No.: CIVVS2502240

Assigned for All Purposes to:
Hon. Carlos M. Cabrera, Dept. S24

**CLASS ACTION AND PAGA
SETTLEMENT AGREEMENT AND
CLASS NOTICE**

Complaint Filed: April 25, 2025
Trial Date: None Set

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiffs Crystal Caruthers and Jessie Diaz (“Plaintiff”) and Defendants Terrible Herbst, Inc. and Terrible Herbst Motorsports, LLC (“Defendants”). The Agreement refers to Plaintiffs and Defendants collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means the Plaintiffs’ lawsuit alleging wage and hour violations against Defendants captioned *Crystal Caruthers and Jessie Diaz, individually, and on behalf of all others similarly situated, and on behalf of other aggrieved employees pursuant to the California Private Attorney General Act vs. Terrible Herbst, Inc., a Nevada corporation; Terrible Herbst Motorsports, LLC, a Nevada limited liability company; and DOES 1 through 10, inclusive*, Case No. CIVVS2502240 initiated on April 25, 2025, and pending in Superior Court of the State of California, County of San Bernardino.
- 1.2. “Administrator” or “Settlement Administrator” means Phoenix Class Action Administrators (“Phoenix”), the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “Aggrieved Employee” means all current and former hourly-paid or non-exempt employees of Defendants within the State of California at any time during the PAGA Period.
- 1.5. “Class” or “Class Members” means all current or former hourly-paid or non-exempt employees of Defendants within the State of California during the Class Period.
- 1.6. “Class Counsel” means THE SENTINEL FIRM, APC.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and

expenses, respectively, incurred to prosecute the Action.

1.8. “Class Data” means Class Member identifying information in Defendants’ possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.

1.9. “Class Member(s)” “Class” or “Settlement Class Member(s)” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non- Participating Class Member who qualifies as an Aggrieved Employee).

1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.

1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English and Spanish in the form, without material variation, attached as **Exhibit A** and incorporated by reference into this Agreement.

1.12. “Class Period” means the period from April 25, 2021, through the earliest of preliminary approval of the class settlement or March 18, 2026, or subject to the provisions of Paragraph 8.

1.13. “Class Representative” or “Class Representatives” means the named Plaintiffs Crystal Caruthers and Jessie Diaz in the operative complaint in the Action seeking Court approval to serve as a Class Representatives for settlement purposes only.

1.14. “Class Representative Service Payment” means the payments to the Class Representatives for initiating the Action and providing services in support of the Action.

1.15. “Court” means the Superior Court of California, County of San Bernardino.

1.16. “Defendants” means Terrible Herbst, Inc. and Terrible Herbst Motorsports, LLC.

1.17. “Defense Counsel” means O’HAGAN MEYER LLP.

1.18. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the

Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no timely objections are filed or if all objections are withdrawn, the date upon which Defendants are served with the Court's Order on Final Approval; (b) if an objection is filed and not withdrawn, the date when the time for filing an appeal has expired and no appeal was filed; or (c) if any timely appeals are filed, the date of the resolution (or withdrawal) of any such appeal in a way that does not alter the terms of the Settlement.

1.19. "Final Approval" means the Court's order granting final approval of the Settlement.

1.20. "Final Approval Hearing" means the Court's hearing on the Motion for Final Approval of the Settlement.

1.21. "Final Judgment" means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.

1.22. "Gross Settlement Amount" means **Two Hundred Ninety-Five Thousand Dollars** (\$295,000.00) which is the total amount Defendants agree to pay under the Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, the Class Representative Service Payment and the Administrator's Expenses.

1.23. "Individual Class Payment" means a Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.

1.24. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 35% of the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during the PAGA Period.

1.25. "Judgment" means the judgment entered by the Court based upon the Final Approval.

1.26. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled to receive penalty payments, under Labor Code § 2699(i).

1.27. "LWDA PAGA Payment" means the 65% of the PAGA Penalties paid to the LWDA under Labor Code § 2699(m).

- 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.29. “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.30. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendants for at least one (1) day during the PAGA Period.
- 1.31. “PAGA Period” means the period from April 27, 2024, through the earliest of preliminary approval of the class settlement or March 18, 2026, or subject to the provisions of Paragraph 8.
- 1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).
- 1.33. “PAGA Notice” means Plaintiff Jessie Diaz’s April 25, 2025 letter to Defendants and the LWDA providing notice pursuant to Labor Code § 2699.3(a).
- 1.34. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, which will be \$25,000.00 in settlement of PAGA claims, and of which 35% (\$8,750.00) shall be allocated to the Aggrieved Employees for Individual PAGA Payments, and the 65% (\$16,250.00) shall be allocated to LWDA for the LWDA PAGA Payment.
- 1.35. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.36. “Plaintiffs” means Crystal Caruthers and Jessie Diaz, the named plaintiffs in the Action.
- 1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.38. “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.
- 1.39. “Released PAGA Claims” means the claims being released as described in Paragraph 5.3

below.

1.40. “Released Parties” means: Defendants, any potential “joint employer,” and any and all of Defendants’ affiliated companies and its respective parent companies, subsidiaries, affiliates, shareholders, owners, members, agents (including, without limitation, any investment bankers, accountants, insurers, reinsurers, attorneys and any past, present or future officers, directors, employees, or other person acting on Defendants’ behalf) predecessors, successors, and assigns.

1.41. “Response Deadline” means sixty (60) days after the Administrator mails Notice to Class Members and Aggrieved Employees and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired to submit Requests for Exclusion from the Settlement, Objections to the Settlement, or to dispute the Workweeks allocated to them as a part of the Settlement.

1.42. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.

1.43. “Workweek” means any week during which a Class Member worked for Defendants for at least one day, during the Class Period.

2. RECITALS.

2.1. On April 25, 2025, Plaintiffs commenced this Action by filing a Complaint in San Bernardino Superior Court alleging causes of action against Defendants for: (1) Violation of Labor Code §§ 204, 1194, 1194.2, 1197 (Failure to Pay Minimum Wages); (2) Violation of Labor Code §§ 1194, 1198 (Failure to Pay Overtime Compensation); (3) Violation of Labor Code §§ 226.7, 512 (Failure to Provide Meal Periods); (4) Violation of Labor Code § 226.7, (Failure to Authorize and Permit Rest Breaks); (5) Violation of Labor Code § 2802 (Failure to Indemnify Necessary Business Expenses); (6) Violation of Labor Code §§ 201-203 (Failure to Timely Pay Final Wages at Termination); and (7) Violation of Labor Code § 226 (Failure to Provide Accurate Itemized Wage Statements); (8) Violation of Bus. & Prof. Code §§ 17200

et seq. (Unfair Business Practices). On July 1, 2025, Plaintiffs filed a First Amended Complaint adding a cause of action for Civil Penalties Under PAGA [Cal. Lab. Code §§ 2699, et seq.]. The First Amended Complaint is the operative complaint in the Action (the “Operative Complaint”).

2.2. Pursuant to Labor Code § 2699.3(a), Plaintiff Diaz gave timely written notice to Defendants and the LWDA by sending the PAGA Notices on April 25, 2025.

Defendants deny the allegations in the Operative Complaint and in the PAGA Notice, denies any failure to comply with the laws identified in in the Operative Complaint and/or the PAGA Notice, and denies any and all liability for the causes of action alleged.

2.3. On December 18, 2025, the Parties participated in an all-day mediation presided over by Steve Pearl, Esq. Subsequently and following additional efforts by the mediator, the Parties eventually accepted a mediator’s proposal to settle the Action.

2.4. Prior to and following the mediation, Plaintiffs obtained, through informal discovery, documents, data, and information necessary to evaluate the claims in the Action, including an appropriate sampling of pay and time records for the Class. Plaintiff’s investigation was sufficient to satisfy the criteria for Court approval set forth in *Dunk v. Ford Motor Company*, 48 Cal. App. 4th 1794, 1801 (1996) and *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 129-130 (2008) (“*Dunk/Kullar*”).

2.5. The Court has not granted class certification.

2.6. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matters apart from the pending matter styled *Monique Navarro v. Terrible Herbst, Inc.* that was filed on February 18, 2026 in the Superior Court of California, County of San Bernardino (Case No. CIVVS2601401), that asserts claims that will be affected by this Agreement.

3. MONETARY TERMS.

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendants promise to pay a maximum of **\$295,000.00** as the Gross Settlement Amount, and to separately pay any and all employer-side payroll taxes owed on the Wage Portion of each Individual Class Payment. Defendants have no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a

condition of payment. None of the Gross Settlement Amount will revert to Defendant.

3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1. To Plaintiffs: A Class Representative Service Payment to each Class Representative of not more than \$7,500.00, in addition to any Individual Class Payment and any Individual PAGA Payment each Class Representative is entitled to receive as a Participating Class Member. Defendants will not oppose Plaintiffs' requests for Class Representative Service Payments that do not exceed this amount. Plaintiffs will seek Court approval for any Class Representative Service Payments in the Final Approval Motion. If the Court approves Class Representative Service Payments less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using the appropriate IRS Form 1099. Plaintiffs assume full responsibility and liability for employee taxes owed on the Class Representative Service Payments and agree to indemnify Defendants and hold them harmless for any responsibility, liability, claim, complaint, damages, penalties, interest or any other actual or potential damages arising from Plaintiffs' obligations to pay taxes owed on the Class Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than one-third of the Gross Settlement Amount and Class Counsel Litigation Expenses Payment of not more than \$25,000.00. Defendants will not oppose requests for these payments. Plaintiffs will seek Court approval for the Class Counsel Fees Payment and the Class Litigation Expenses Payment in the Final Approval Motion. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim as to any portion of the Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more appropriate IRS-1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees

1 Payment and the Class Counsel Litigation Expenses Payment and agrees to indemnify Defendants
2 and hold it harmless for any responsibility, liability, claim, complaint, damages, penalties, interest
3 or any other actual or potential damages arising from Class Counsel's obligations to pay taxes owed
4 on these Payments or from any dispute or controversy regarding any division or sharing of any of
5 these Payments.

6 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$7,500.00 except
7 upon a showing of good cause and as approved by the Court. To the extent the Administration
8 Expenses are less than, or the Court approves payment less than this amount, the Administrator will
9 retain the remainder in the Net Settlement Amount. Phoenix Class Action Administrators has been
10 selected as the Administrator, based upon its "not to exceed" bid of \$7,500.00.

11 3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a)
12 dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating
13 Class Members during the Class Period and (b) multiplying the result by each Participating Class
14 Member's Workweeks.

15 3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each Participating
16 Class Member's Individual Class Payment will be allocated to settlement of
17 wage claims (the "Wage Portion"). The Wage Portion of each Individual
18 Class Payment is subject to tax withholding and will be reported on an IRS
19 W-2 Form. The remaining 80% of each Participating Class Member's
20 Individual Class Payment will be allocated to settlement of claims for
21 interest and penalties (the "Non-Wage Portion"). The Non-Wage Portion of
22 each Individual Class Payment is not subject to wage withholdings and will
23 be reported on IRS 1099 Forms. Participating Class Members assume full
24 responsibility and liability for any taxes owed on their Individual Class
25 Payments and agree to indemnify Defendants and hold them harmless for
26 any responsibility, liability, claim, complaint, damages, penalties, interest or
27 any other actual or potential damages arising from Participating Class
28 Members' obligations to pay taxes owed on these Payments.

3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$25,000.00 to be paid from the Gross Settlement Amount, with 65% (\$16,250.00) allocated to the LWDA PAGA Payment and 35% (\$8,750.00) allocated to Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 35% share of PAGA Penalties (\$8,750.00) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payments and agree to indemnify Defendants and hold it harmless for any responsibility, liability, claim, complaint, damages, penalties, interest or any other actual or potential damages arising from Aggrieved Employees' obligations to pay taxes owed on these Payments.

3.2.5.2. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on the appropriate IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Workweeks and Aggrieved Employee Pay Periods. This Settlement is made based on the estimate that number of Workweeks worked by an estimated 170 Class Members during the Class Period is estimated to be 9,467 and the number of pay periods worked by the estimated 97 Aggrieved Employees is 2,098.

1 4.2. Class Data. Not later than fourteen (14) days after service of the Preliminary Approval of
2 the Settlement Order on Defense Counsel, Defendants will deliver the Class Data to the Administrator, in
3 the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator
4 must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for
5 no other purpose, and restrict access to the Class Data to Administrator employees who need access to the
6 Class Data to effect and perform required tasks under this Agreement. Defendants have a continuing duty
7 to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying
8 information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any
9 extension of the deadline by which Defendants must send the Class Data to the Administrator, the Parties
10 and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any
11 issues related to missing or omitted Class Data.

12 4.3. Funding of Gross Settlement Amount. Defendants shall fund the Gross Settlement Amount,
13 and also fund the amounts necessary to fully pay Defendant's share of payroll taxes as to the Wage Portion
14 of the Gross Settlement Amount by transmitting the funds to the Administrator within 30 days of the
15 Effective Date.

16 4.4. Payments from the Gross Settlement Amount. Within thirty (30) days after Defendants fund
17 the settlement as provided for in Paragraph 4.3, the Administrator will mail checks for all Individual Class
18 Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses
19 Payment, Class Counsel Fees Payment, the Class Counsel Litigation Payment, Class Counsel Expenses
20 Payment, and the Class Representative Service Payment(s). Disbursement of the Class Counsel Fees
21 Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment(s)
22 shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

23 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or
24 Individual PAGA Payments and send them to the Class Members via First Class
25 U.S. Mail, postage prepaid. The face of each check shall prominently state the date
26 when the check will be voided, which date shall be one hundred eighty (180) days
27 after the date of mailing. The Administrator will cancel all checks not cashed by the
28 void date. The Administrator will send checks for Individual Settlement Payments

to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within seven (7) days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to a suitable *cy pres* organization pursuant to California Code of Civil Procedure § 384(b). The Parties have selected the Alliance for Children's Rights as the proposed beneficiary.

4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendants to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASES OF CLAIMS.

Upon the Court's final approval of the settlement and as of the date on which the Gross Settlement

Amount is funded, Plaintiffs and the Participating Class Members will release claims against all Released Parties as follows:

5.1. Plaintiffs' Release.

5.1.1. Scope of Plaintiffs' Release. In addition the release of claims set forth in Paragraphs 5.2 and 5.3 below, Plaintiffs and their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from any and all of the claims, whether known or unknown, suspected or unsuspected, contingent or non-contingent, which now exist, or have existed, upon any theory of law or equity now existing, including, but not limited to, conduct that is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. Additionally, Plaintiffs release the Released Parties of all claims, charges, complaints, liens, demands, causes of action, obligations, damages and liabilities, known or suspected, arising from their employment with the Defendants. The released claims include, without limitation: claims under (1) the Civil Rights Act of 1964, as amended; (2) 42 U.S.C. § 1981; (3) the California Fair Employment and Housing Act; (4) Section 503 of the Rehabilitation Act of 1973; (5) the Americans with Disabilities Act; (6) the Fair Labor Standards Act (including the Equal Pay Act); (7) the California and the United States Constitution; (8) the California Labor Code; (9) the Family and Medical Leave Act; (10) the California Family Rights Act; (11) the Worker Adjustment and Retraining Notification Act; (12) the Employee Retirement Income Security Act; (13) the Immigration Reform and Control Act; (14) the California Business and Professions Code, sections 17200, et seq.; (15) the California Government Code; and (16) the California Wage Orders (collectively "Claim" or "Claims") which Plaintiffs now have, owns or hold, or claim to have, own or hold, or which Plaintiffs at any time had, owned or held, or claimed to have, own or hold against any of the Released Parties up to and including, as of the final approval of this Settlement Agreement.

(Everything released based on the above as well as everything released as part of the Released Class Claims discussed below will be referred to as “Plaintiffs’ Release.”) Plaintiffs’ Release does not extend to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers’ compensation benefits that arose at any time. Plaintiffs acknowledge that they may discover facts or law different from, or in addition to, the facts or law that they now know or believe to be true but agrees, nonetheless, that Plaintiffs’ Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs’ discovery of them.

5.1.2. Plaintiffs’ Waiver of Rights Under California Civil Code § 1542. For purposes of Plaintiffs’ Release, Plaintiffs expressly waive and relinquish the provisions, rights, and benefits, if any, of Section 1542 of the California Civil Code, which reads:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or Released Party.

5.2. Release by Participating Class Members: All Participating Class Members, including Plaintiffs, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release the Released Parties from any and all causes of action, claims, rights, damages, punitive or statutory damages, penalties of any kind, liabilities, expenses, and losses including but not limited to the causes of action described in the complaints and any violation of any other statute, ordinance, rule, or regulation, whether federal, state, or administrative, or any other causes of action that any Class Member has or might have, in law or in equity, of any kind whatsoever, arising at any time during the Class Period that was alleged or that could have been alleged based on the factual allegations in the complaints, Operative Complaint, along with all related claims and all associated penalties (other than civil penalties). Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

1 5.3. Release by Aggrieved Employees and the State of California: Through Plaintiff Diaz's
2 release as agent and proxy of the LWDA, Plaintiff Diaz, all Aggrieved Employees, and the State of
3 California will release and forever be barred from seeking civil penalties against Released Parties for any
4 and all claims under PAGA that were alleged or that could have been alleged based on the factual allegations
5 described in the Operative Complaint filed with the Court for this Action or Plaintiff Diaz's notice to the
6 Labor and Workforce Development Agency ("LWDA") ("PAGA Notice") that arose during the PAGA
7 Period.

8 **6. MOTION FOR PRELIMINARY APPROVAL.**

9 Plaintiffs shall prepare and file a motion for preliminary approval ("Motion for Preliminary
10 Approval") that complies with the Court's current checklist for Preliminary Approval.

11 6.1. Plaintiff's Responsibilities. Plaintiffs will prepare all documents necessary for obtaining
12 Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for
13 Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for
14 approval of the PAGA Settlement under Labor Code § 2699(f)(2)); (ii) a draft proposed Order Granting
15 Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed
16 declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and
17 attesting to its willingness to serve; competency; operative procedures for protecting the security of Class
18 Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts
19 relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any
20 financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from
21 Plaintiffs confirming willingness and competency to serve and disclosing all facts relevant to any actual or
22 potential conflicts of interest with Class Members or the Administrator; (v) a signed declaration from each
23 Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to
24 the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code § 2699.3(a)),
25 Operative Complaint (Labor Code § 2699(l)(1)), this Agreement (Labor Code § 2699(l)(2)) and (vi) all facts
26 relevant to any actual or potential conflict of interest with Class Members, the Administrator. In their
27 Declarations, Plaintiffs and Class Counsel shall aver that they are not aware of any other pending matter or
28 action asserting claims that will be extinguished or adversely affected by the Settlement.

1 6.2. Responsibilities of Counsel. Class Counsel is responsible for expeditiously finalizing and
2 filing the Motion for Preliminary Approval after the full execution of this Agreement; obtaining a prompt
3 hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the
4 Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary
5 Approval to the Administrator.

6 **7. SETTLEMENT ADMINISTRATION.**

7 7.1. Selection of Administrator. The Parties have jointly selected Phoenix Class Action
8 Administration ("Phoenix") to serve as the Administrator and verified that, as a condition of appointment,
9 Phoenix agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this
10 Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent
11 that they have no interest or relationship, financial or otherwise, with the Administrator other than a
12 professional relationship arising out of prior experiences administering settlements.

13 7.2. Employer Identification Number. The Administrator shall have and use its own Employer
14 Identification Number for purposes of calculating payroll tax withholdings and providing reports state and
15 federal tax authorities.

16 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets
17 the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation § 468B-1.

18 7.4. Notice to Class Members.

19 7.4.1. No later than three (3) business days after receipt of the Class Data, the Administrator
20 shall notify Class Counsel that the list has been received and state the number of
21 Class Members, PAGA Members, Workweeks, and PAGA Pay Periods in the Class
22 Data.

23 7.4.2. Using best efforts to perform as soon as possible, and in no event later than fourteen
24 (14) days after receiving the Class Data, the Administrator will send to all Class
25 Members identified in the Class Data, via first-class United States Postal Service
26 ("USPS") mail, the Class Notice (with Spanish translation) substantially in the form
27 attached to this Agreement as **Exhibit A**. The first page of the Class Notice shall
28 prominently estimate the dollar amounts of any Individual Class Payment and/or

Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

7.4.3. Not later than three (3) business days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

7.4.4. The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional fourteen (14) days beyond the sixty (60) days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

7.4.5. If the Administrator, Defendants or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than fourteen (14) days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

7.5. Requests for Exclusion (Opt-Outs).

7.5.1. Class Members who wish to exclude themselves from (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written

1 Request for Exclusion not later than sixty (60) days after the Administrator mails the
2 Class Notice or as otherwise extended for re-mailed Class Notices as described
3 herein. A Request for Exclusion is a letter from a Class Member or his/her
4 representative that reasonably communicates the Class Member's election to be
5 excluded from the Settlement and includes the Class Member's name, address and
6 email address or telephone number. To be valid, a Request for Exclusion must be
7 timely faxed, emailed, or postmarked by the Response Deadline, subject to extension
8 for remailed Class Notices as described herein.

9 7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it fails
10 to contain all the information specified in the Class Notice. The Administrator shall
11 accept any Request for Exclusion as valid if the Administrator can reasonably
12 ascertain the identity of the person as a Class Member and the Class Member's desire
13 to be excluded. The Administrator's determination shall be final and not appealable
14 or otherwise susceptible to challenge. If the Administrator has reason to question
15 the authenticity of a Request for Exclusion, the Administrator may demand
16 additional proof of the Class Member's identity. The Administrator's determination
17 of authenticity shall be final and not appealable or otherwise susceptible to challenge.

18 7.5.3. Every Class Member who does not submit a timely and valid Request for Exclusion
19 is deemed to be a Participating Class Member under this Agreement, entitled to all
20 benefits and bound by all terms and conditions of the Settlement, including the
21 Participating Class Members' Releases under Paragraphs 5.2 of this Agreement,
22 regardless whether the Participating Class Member actually receives the Class
23 Notice or objects to the Settlement.

24 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a
25 Non-Participating Class Member and shall not receive an Individual Class Payment
26 or have the right to object to the class action components of the Settlement. Because
27 future PAGA claims are subject to claim preclusion upon entry of the Judgment,
28 Non-Participating Class Members are eligible for an Individual PAGA Payment.

1 7.6. Challenges to Calculation of Workweeks. Each Class Member shall have sixty (60) days
2 after the Administrator mails the Class Notice, or as otherwise extended for re-mailed Class
3 Notices as described herein, to challenge the number of Workweeks and PAGA Pay Periods
4 (if any) allocated to the Class Member in the Class Notice. The Class Member may
5 challenge the allocation by communicating with the Administrator via fax, email or mail.
6 The Administrator must encourage the challenging Class Member to submit supporting
7 documentation. In the absence of any contrary documentation, the Administrator is entitled
8 to presume that the Workweeks contained in the Class Notice are correct so long as they are
9 consistent with the Class Data. The Administrator's determination of each Class Member's
10 allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise
11 susceptible to challenge. The Administrator shall promptly provide copies of all challenges
12 to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and
13 the Administrator's determination the challenges.

14 7.7. Objections to Settlement.

15 7.7.1. Only Participating Class Members may object to the class action components of the
16 Settlement and/or this Agreement, including contesting the fairness of the
17 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class
18 Counsel Litigation Expenses Payment and/or Class Representative Service
19 Payment.

20 7.7.2. Participating Class Members may send written objections to the Administrator, by
21 fax, email, or mail. In the alternative, Participating Class Members may appear in
22 Court (or hire an attorney to appear in Court) to present verbal objections at the Final
23 Approval Hearing. A Participating Class Member who elects to send a written
24 objection to the Administrator must do so not later than the Response Deadline, or
25 as otherwise extended for re-mailed Class Notices as described herein.

26 7.7.3. Non-Participating Class Members have no right to object to any of the class action
27 components of the Settlement.

28 7.7.4. Class Members (whether Participating or Non-Participating) and Aggrieved

1 Employees have no right to object to or intervene in any of the PAGA components
2 of the Settlement.

3 7.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be
4 performed or observed by the Administrator contained in this Agreement or otherwise.

5 7.8.1. Website, Email Address and Toll-Free Number. The Administrator will post
6 information of interest to Class Members including the date, time and location for
7 the Final Approval Hearing and copies of the Settlement Agreement, the Class
8 Notice, the Final Approval and the Judgment on the Administrator's website. The
9 Administrator will also maintain and monitor an email address and a toll-free
10 telephone number to receive Class Member calls, faxes and emails.

11 7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will
12 promptly review on a rolling basis Requests for Exclusion to ascertain their validity.
13 Not later than five (5) days after the expiration of the deadline for submitting
14 Requests for Exclusion, the Administrator shall email a list to Class Counsel and
15 Defense Counsel containing (a) the names and other identifying information of Class
16 Members who have timely submitted valid Requests for Exclusion ("Exclusion
17 List"); (b) the names and other identifying information of Class Members who have
18 submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion
19 from Settlement submitted (whether valid or invalid).

20 7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written reports
21 to Class Counsel and Defense Counsel that, among other things, tally the number of:
22 Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for
23 Exclusion (whether valid or invalid) received, objections received, challenges to
24 Workweeks and/or Pay Periods received and/or resolved, and checks mailed for
25 Individual Class Payments and Individual PAGA Payments ("Weekly Report").
26 The Weekly Reports must include provide the Administrator's assessment of the
27 validity of Requests for Exclusion and attach copies of all Requests for Exclusion
28 and objections received.

1 7.8.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to
2 address and make final decisions consistent with the terms of this Agreement on all
3 Class Member challenges over the calculation of Workweeks and/or Pay Periods.
4 The Administrator's decision shall be final and not appealable or otherwise
5 susceptible to challenge.

6 7.8.5. Administrator's Declaration. Not later than fourteen (14) days before the date by
7 which Plaintiffs are required to file the Motion for Final Approval of the Settlement,
8 the Administrator will provide to Class Counsel and Defense Counsel, a signed
9 declaration suitable for filing in Court attesting to its due diligence and compliance
10 with all of its obligations under this Agreement, including, but not limited to, its
11 mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of
12 Class Notices, attempts to locate Class Members, the total number of Requests for
13 Exclusion from Settlement it received (both valid or invalid), the number of written
14 objections and attach the Exclusion List. The Administrator will supplement its
15 declaration as needed or requested by the Parties and/or the Court. Class Counsel is
16 responsible for filing the Administrator's declaration(s) in Court.

17 7.8.6. Final Report by Settlement Administrator. Within fourteen (14) days after the
18 Administrator disburses all funds in the Gross Settlement Amount, the Administrator
19 will provide Class Counsel and Defense Counsel with a final report detailing its
20 disbursements by employee identification number only of all payments made under
21 this Agreement. At least fourteen (14) days before any deadline set by the Court, the
22 Administrator will prepare, and submit to Class Counsel and Defense Counsel, a
23 signed declaration suitable for filing in Court attesting to its disbursement of all
24 payments required under this Agreement. Class Counsel is responsible for filing the
25 Administrator's declaration in Court.

26 **8. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE.**

27 Based on its records as of mediation, Defendants estimate that the number of Workweeks during the
28 Class Period is estimated to be 9,467. The Parties have stipulated to a 10% escalation of the estimated

Workweeks in the final Workweeks' count at the end of the Class Period without any increase to the Gross Settlement Amount. In the event the number of workweeks worked during the Class Period by Class Members increases by more than 10% of 9,467(i.e., Exceeds 10,414 Workweeks), then the GSA shall be increased proportionally by the workweeks worked in excess of 10,414 multiplied by the Workweek Value, Defendants, at its sole discretion, may elect to either (A) pay the pro rata percentage increase in excess of 10% of 9,467 Workweeks to include the additional workweeks at a *pro rata* rate or (B) end the release date as of the date the 10,414 Workweeks are reached but not exceeded. For example, If Defendants elect Option (A) from the previous sentence, Defendants shall increase the Gross Settlement Amount by a *pro-rata* dollar value equal to the number of Workweeks in excess of 10,414 workweeks. In other words, if there is a 1% increase over the 10% cushion, then the GSA increases by 1%. Defendants shall use their best efforts to inform Class Counsel of whether the escalator clause has triggered and if so, which option it intends to select at least three (3) days prior to the date on which a Motion for Preliminary Approval is due to be filed with the Court. Final verification regarding whether the provisions of this Paragraph have triggered will be determined by the Administrator; in the event the provisions of this paragraph are triggered, Defendants must inform Class Counsel and the Administrator of its election to increase the Gross Settlement Amount or to modify the Class Period no later than five (5) days prior to the date on which Class Notice is scheduled to be mailed to Class Members pursuant to Paragraph 7.4.2.

9. RIGHT TO WITHDRAW

If 5% or more of the Settlement Class members elect not to participate in the Settlement by submitting a valid Request for Exclusion, Defendants may, at their election, rescind the Settlement and all actions taken in its furtherance of it will be thereby null and void. The Parties agree that, if Defendants elects to withdraw pursuant to this Paragraph, the Settlement shall be void *ab initio*, have no force or effect whatsoever, and neither Party will have any further obligation to perform under this Agreement; provided, however, Defendants will be responsible for paying all Settlement Administration Expenses incurred to that point. Defendants must notify Class Counsel and the Court of its election to withdraw not later than 30 calendar days following the Response Deadline.

10. MOTION FOR FINAL APPROVAL

Not later than sixteen (16) court days before the calendared Final Approval Hearing, Plaintiffs will

1 file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA
2 settlement under Labor Code § 2699(s)(2), a Proposed Final Approval Order and a proposed Judgment
3 (collectively “Motion for Final Approval”).

4 10.1. Response to Objections. Each Party retains the right to respond to any objection raised by a
5 Participating Class Member, including the right to file responsive documents in Court no
6 later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or
7 accepted by the Court.

8 10.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval
9 on any material change to the Settlement (including, but not limited to, the scope of release
10 to be granted by Class Members), the Parties will expeditiously work together in good faith
11 to address the Court’s concerns by revising the Agreement as necessary to obtain Final
12 Approval. The Parties agree that changes to the timing of payments or notice periods, or to
13 the contents of the Notice of Settlement, which are requested by the Court do not necessitate
14 an amendment or revision to this Agreement unless such an Amendment is required by the
15 Court.

16 10.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the
17 Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes
18 of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration
19 matters, and (iii) addressing such post-Judgment matters as are permitted by law.

20 10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
21 conditions of this Agreement, specifically including the Class Counsel Fees Payment and
22 Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties,
23 their respective counsel, and all Participating Class Members who did not object to the
24 Settlement as provided in this Agreement, waive all rights to appeal from the Judgment,
25 including all rights to post-judgment and appellate proceedings, the right to file motions to
26 vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of
27 appeal does not include any waiver of the right to oppose such motions, writs or appeals. If
28 an objector appeals the Judgment, the Parties’ obligations to perform under this Agreement

will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50/50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

11. AMENDED JUDGMENT.

If any amended judgment is required under Code of Civil Procedure § 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

12. ADDITIONAL PROVISIONS.

12.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendants that any of the allegations in the Operative Complaint have merit or that Defendants have any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs that Defendants' defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or enter Judgment, Defendants reserve the right to contest certification of any class for any reasons, and Defendants reserve all available defenses to the claims in the Action, and Plaintiffs reserve the right to move for class certification on any grounds available and to contest Defendants' defenses. The Settlement, this Agreement, any papers submitted or filed in connection with the approval of this Agreement, and Parties' willingness to settle the

1 Action will have no bearing on, and will not be admissible in connection with, any litigation (except for
2 proceedings to enforce or effectuate the Settlement and this Agreement).

3 12.2. Court Approval. In the event that the Court fails to approve the settlement notwithstanding
4 the good faith efforts of the Parties pursuant to Paragraph 12.7 of this Agreement, or if the appropriate
5 appellate court fails to approve the settlement, or if the Settlement Agreement is otherwise terminated: (1)
6 the Settlement Agreement shall have no force and effect and the Parties shall be restored to their respective
7 positions prior to entering into it, and no Party shall be bound by any of the terms of the Settlement
8 Agreement; (2) Defendants shall have no obligation to make any payments to the Settlement Class
9 Members, the Settlement Administrator, the LWDA, Plaintiffs or Plaintiff's counsel; (3) any preliminary
10 approval order, final approval order or judgment, shall be vacated; and (4) the Settlement Agreement and
11 all negotiations, statements, proceedings and data relating thereto shall be deemed confidential mediation
12 settlement communications and not subject to disclosure for any purpose in any proceeding.

13 12.3. Confidentiality Prior to Preliminary Approval. Plaintiffs, Class Counsel, Defendants and
14 Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they
15 and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to
16 disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or
17 generally, to any person, corporation, association, government agency, or other entity except: (1) to the
18 Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement
19 confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing
20 authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued
21 by a state or federal government agency. Each Party agrees to immediately notify each other Party of any
22 judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant,
23 and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other
24 communication, before the filing of the Motion for Preliminary Approval, any with third party regarding
25 this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was
26 resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with
27 Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
28 Notwithstanding the foregoing, the settlement is not confidential, and Plaintiffs and/or Plaintiffs' Counsel

1 shall submit the settlement to the LWDA and the Court for purposes of obtaining preliminary and/or final
2 settlement approval.

3 12.4. No Solicitation. The Parties separately agree that they and their respective counsel and
4 employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the
5 Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate
6 with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

7 12.5. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
8 together with its attached exhibits shall constitute the entire agreement between the Parties relating to the
9 Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or
10 by any Party.

11 12.6. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
12 represent that they are authorized by Plaintiff and Defendants, respectively, to take all appropriate action
13 required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to
14 execute any other documents reasonably required to effectuate the terms of this Agreement including any
15 amendments to this Agreement.

16 12.7. Cooperation. The Parties and their counsel will cooperate with each other and use their best
17 efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement
18 Agreement, submitting supplemental evidence and supplementing points and authorities as requested by
19 the Court. In the event the Parties are unable to agree upon the form or content of any document necessary
20 to implement the Settlement, or on any modification of the Agreement that may become necessary to
21 implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

22 12.8. No Prior Assignments. The Parties separately represent and warrant that they have not
23 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any
24 person or entity and portion of any liability, claim, demand, action, cause of action, or right released and
25 discharged by the Party in this Settlement.

26 12.9. No Tax Advice. Neither Plaintiffs, Class Counsel, Defendants nor Defense Counsel are
27 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as
28 such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended)

1 or otherwise.

2 12.10. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified,
3 changed, or waived only by an express written instrument signed by all Parties or their representatives, and
4 approved by the Court.

5 12.11. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the
6 benefit of, the successors of each of the Parties.

7 12.12. Applicable Law. All terms and conditions of this Agreement and its exhibits will be
8 governed by and interpreted according to the internal laws of the state of California, without regard to
9 conflict of law principles.

10 12.13. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this
11 Agreement. This Agreement will not be construed against any Party on the basis that the Party was the
12 drafter or participated in the drafting.

13 12.14. Confidentiality. To the extent permitted by law, all agreements made, and orders entered
14 during Action and in this Agreement relating to the confidentiality of information shall survive the execution
15 of this Agreement.

16 12.15. Use and Return of Class Data. Information provided to Class Counsel pursuant to Evidence
17 Code § 1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendants in
18 connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be
19 used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates
20 any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the
21 Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all
22 Settlement funds, Plaintiffs shall destroy, all paper and electronic versions of Class Data received from
23 Defendant.

24 12.16. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted
25 for convenience of reference only and does not constitute a part of this Agreement.

26 12.17. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be
27 to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal
28 legal holiday, such date or deadline shall be on the first business day thereafter.

12.18. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Seung L. Yang
seung.yang@thesentinelfirm.com
Tiffany Hyun
tiffany.hyun@thesentinelfirm.com
Jeffrey P. Jackson
jeffrey.jackson@thesentinelfirm.com
THE SENTINEL FIRM, APC
355 S Grand Ave. Suite 1450
San Bernardino, California 90071
Telephone: (213) 985-1150
Facsimile: (213) 985-2155

To Defendants:

O'HAGAN MEYER, LLP
Vincent Fisher
vfisher@ohaganmeyer.com
Cruz Zavala
czavala@ohaganmeyer.com
One Embarcadero, Suite 2100
San Francisco, CA 94111
Telephone: 312.422.6100

12.19. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

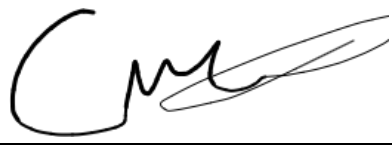
12.20. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

[SIGNATURES ON NEXT PAGE]

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1 **IT IS SO AGREED.**

2
3 Dated: 05 / 18 / 2026

By: 

CRYSTAL CARUTHERS, Plaintiff
For Herself and on Behalf of the Settlement Class

4
5
6 Dated: _____

By: _____

JESSIE DIAZ, Plaintiff
For Herself and on Behalf of the Settlement
Class, the State of California, and the Aggrieved
Employees

7
8
9
10 Dated: _____

TERRIBLE HERBST, INC.

11
12 By: _____

Print Name

13
14 _____
Signature

15
16 _____
Title

17 Dated: _____

TERRIBLE HERBST MOTORSPORTS, LLC

18
19 By: _____

Print Name

20
21 _____
Signature

22
23 _____
Title

1 **IT IS SO AGREED.**

2
3 Dated: _____

By: _____
CRYSTAL CARUTHERS, Plaintiff
For Herself and on Behalf of the Settlement Class

4
5
6 Dated: 07 / 08 / 2026
7 _____

By:  _____
JESSIE DIAZ, Plaintiff
For Herself and on Behalf of the Settlement
Class, the State of California, and the Aggrieved
Employees

8
9
10 Dated: _____

TERRIBLE HERBST, INC.

11
12 By: _____
Print Name

13
14 _____
Signature

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16 _____
Title

17 Dated: _____

TERRIBLE HERBST MOTORSPORTS, LLC

18
19 By: _____
Print Name

20
21 _____
Signature

22
23 _____
Title

1 **IT IS SO AGREED.**

2
3 Dated: _____

By: _____
CRYSTAL CARUTHERS, Plaintiff
For Herself and on Behalf of the Settlement Class

4
5
6 Dated: _____

By: _____
JESSIE DIAZ, Plaintiff
For Herself and on Behalf of the Settlement
Class, the State of California, and the Aggrieved
Employees

7
8
9
10 Dated: June 17, 2026

TERRIBLE HERBST, INC.

11
12 By: Tim Herbst
Print Name

13
14 Signature

15 President
16 Title

17 Dated: June 17, 2026

TERRIBLE HERBST MOTORSPORTS, LLC

18
19 By: Tim Herbst
Print Name

20
21 Signature

22 Manager
23 Title